

**REMARKS****Status of the Claims**

Claims 1, 3 and 4 are pending in this application and stand rejected.

Claims 1 is amended herein. Support for the claims is found throughout the instant specification. For example at: page 14, lines 8 – 17 and page 16, line 21 – page 17, line 12. Claims 9 and 10 are newly added. Claims 3 and 4 are cancelled herein without prejudice or disclaimer, and Applicant retains its right to pursue claims to the canceled subject matter in one or more continuing applications claiming priority to this application.

No new matter has been introduced by these amendments. Reconsideration and withdrawal of the pending rejections in view of the above claim amendments and below remarks are respectfully requested.

**Claim Rejections****Response to Rejections under 35 U.S.C. §102**

Claims 1, 3 and 4 have been rejected under 35 U.S.C. §102(b) as being anticipated by Minemoto et al (JP 2002172090 A2) (IDS NPL: English Language Abstract of JP 2002-172090). Claims 3 and 4 have been cancelled. Therefore, the below remarks do not address cancelled claims 3 and 4.

Applicant respectfully submits that Minemoto fails to disclose each element of independent Claim 1. Minemoto teaches an apparatus which detects a variation of intensity of measurement light used for the measurement of intraocular pressure, and changes an operation distance or the like of the pressurized air blowing means.

On the contrary, the non-contact tonometer recited in Claim 1 uses the light used for alignment so as to obtain the reflection condition of the cornea of the eye to be examined. In the present invention, the reliability of the measured intraocular pressure is determined on the basis of the reflection condition that is obtained by the alignment light. Minemoto fails to show or suggest this element.

Furthermore, Katsuragi (U.S. Patent No. 5,469,233), which was recited in the Office Action dated March 29, 2007 shows the use of the reflected alignment light, but the reflected alignment light is compared with only the predetermined constant reference value. On the contrary, the claimed non-contact tonometer changes the reference value in accordance with

the intensity of the reflected alignment light. Hence, the subject matter of Claim 1 should be recognized as distinguishable from the matter shown in Katsuragi.

Accordingly, for at least the above mentioned reasons, withdrawal of the anticipation rejections is respectfully requested.

Response to Rejections under 35 U.S.C. §112

Claims 1, 3 and 4 have been rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. According to Examiner, Claims 1, 3 and 4 are “incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections.” Office Action at 4. Claims 3 and 4 have been cancelled. Therefore, the below remarks do not address cancelled claims 3 and 4.

Independent Claim 1 has been amended and now provides for “a CPU for determining a reliability level of an output signal which is output from the intraocular pressure measurement light receiving means in comparison with a reference level which is varied on the basis of an intensity of the image sensed by the image capture means.” Based on the foregoing amendments, Applicant respectfully submits that sufficient structure for a cooperative relationship is claimed.

Therefore, Applicant respectfully requests withdrawal of this ground of rejection of Claim 1.

Claim Objections

According to Examiner, the claims in the instant application “appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.” Office Action at 2. Accordingly, Examiner requested correction of these “informalities” “in the interest of claim clarity.” Id. at 2-3.

Based on the foregoing amendments, Applicant respectfully requests withdrawal of these objections.

Summary of Interview

The Applicant thanks the Examiner for extending the courtesy of a telephonic interview on January 8, 2008. The participants were the Examiner and the Applicant’s representatives Steven F. Meyer and Adam Rodriguez.

As reflected by the Interview Summary provided by the U.S. Patent and Trademark Office, discussed, for instance, were the amendments to independent claim 1.

Specifically, the participants addressed the rejections pursuant to 35 U.S.C. § 102 and 112. The Examiner suggested that the proposed amendments appeared to obviate both the § 102(b) and § 112 rejections.

**CONCLUSION**

Based on the foregoing amendments, additions and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims and allowance of this application. Favorable action by the Examiner is earnestly solicited.

Entry of the amendments and an action passing this case to issue is therefore respectfully requested. In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1232-5178. Furthermore, in the event that an extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this Response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-noted Deposit Account and Order No. 1232-5178.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

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By: \_\_\_\_\_

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